

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

KIMBERLY DARO,

Plaintiff,

vs.

UNION PACIFIC RAILROAD
COMPANY, a Delaware Corporation;

Defendants.

4:20CV3087

**FINAL PROGRESSION ORDER
(2nd AMENDED)**

IT IS ORDERED:

A. Plaintiff's unopposed motion to continue deadlines within the case progression order, (Filing No. 62), is granted. The amended final progression order (Filing No. 37) are amended as follows:

- 1) The trial and pretrial conference will not be set at this time. A status conference to discuss case progression, the parties' interest in settlement, and the trial and pretrial conference settings will be held with the undersigned magistrate judge on January 4, 2024 at 9:30 a.m. by telephone. Counsel shall use the conferencing instructions assigned to this case to participate in the conference.
- 2) The deadline for completing written discovery under Rules 33, 34, 36 and 45 of the Federal Rules of Civil Procedure is **August 16, 2023**. Motions to compel written discovery under Rules 33, 34, 36, and 45 must be filed by **August 31, 2023**.

Note: A motion to compel, to quash, or for a disputed protective order shall not be filed without first contacting the chambers of the undersigned magistrate judge to set a conference for discussing the parties' dispute.

- 3) The deadlines for complete expert disclosures¹ for all experts expected to testify at trial, (both retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(B\)](#)), and non-retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(C\)](#)), are:

For the plaintiff(s):	October 15, 2023.
For the defendant(s):	November 15, 2023.
Plaintiff(s)' rebuttal:	November 30, 2023.

- 4) The deposition deadline, including but not limited to depositions for oral testimony only under Rule 45, is **December 27, 2023.**
- 5) The deadline for filing motions to dismiss and motions for summary judgment is **January 27, 2024.**
- 6) The deadline for filing motions to exclude testimony on *Daubert* and related grounds is **January 27, 2024.**
- 7) Motions in limine shall be filed seven days before the pretrial conference. It is not the normal practice to hold hearings on motions in limine or to rule on them prior to the first day of trial. Counsel should plan accordingly.
- 8) The parties shall comply with all other stipulations and agreements recited in their Rule 26(f) planning report that are not inconsistent with this order.
- 9) Deadlines within the Filing 37 progression order that are not specifically amended by this order are unchanged.
- 10) All requests for changes of deadlines or settings established herein shall be directed to the undersigned magistrate judge, including all requests for changes of trial dates. Such requests will not be considered absent a showing of due diligence in the timely progression of this case and the recent development of circumstances, unanticipated prior to the filing of the motion, which require that additional time be allowed.

B. Defendant's motion for summary judgment, (Filing No. 52), is denied as follows:

- 1) The railroad's motion for judgment based on Plaintiff's inability to prove causation due to a lack of expert medical testimony is denied as moot.
- 2) The railroad's motion for partial summary judgment on the Locomotive Inspection Act claim is denied without prejudice to refiling.

March 14, 2023.

BY THE COURT:

s/ Cheryl R. Zwart
United States Magistrate Judge